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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,785	04/12/2007	Marcus Bernard Hubert Bontjer	P07009US0	5507
34082 7590 07/14/2008 ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			EXAMINER PARSLEY, DAVID J	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 07/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,785	<b>Applicant(s)</b> BONTJER ET AL.	
	<b>Examiner</b> DAVID J. PARSLEY	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-24-08 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,418,447 to Ziolk.

Referring to claim 1, Ziolk discloses a method for phased separation of a sausage strand comprising the steps of supplying a sausage strand - at 58, positioning the sausage strand relative to a separating element – at 34-62, moving at least two pressing members – at 61,62, forming part of the separating element toward each other – see figures 4-5, with a first movement such

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that the sausage strand is constricted locally – see figures 4-5, moving the pressing members in the opposite direction apart from each other – see figure 6, where items 61-62 are moved further apart than they were in figure 5 and thus move in the opposite direction/apart with respect to each other, and moving at least two cutting elements - at 56, forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during the moving of the pressing members toward each other - see figures 4-7.

Referring to claim 2, Ziolkowski discloses the sausage strand is supplied at a constant speed and that along a part of the transport part of the sausage strand the separating element is advanced parallel to the sausage strand - see figure 1.

Referring to claim 3, Ziolkowski discloses the sausage strand is locally constricted by at least partially displacing sausage dough locally from a casing enclosing sausage dough – see at 58 and column 8 lines 54-68.

Referring to claim 4, Ziolkowski discloses the sausage dough is displaced such that casing parts of the sausage strand on opposite sides are brought into contact with each other during constricting of the sausage strand in moving the pressing members toward each other - see figures 1-7.

Referring to claim 5, Ziolkowski discloses the pressing members are provided with coating contact surfaces – at 61,62, between which the sausage strand is engaged – see figures 4-7.

Referring to claim 6, Ziolkowski discloses the pressing members and the cutting members of a separating element are operated by a common drive - see at 45-47, 50, 65,74.

Referring to claim 7, Ziolkko discloses a separating element for phased separation of a sausage strand comprising, at least two pressing members – at 61,62, which pressing members are relatively displaceable between a release position and an operative position in which the pressing members are placed closer together than in the release position - see figures 4-7, and at least two cutting members - at 56, assembled with the pressing members - see figures 1-7, which cutting members are relatively displaceable between a release position and a cutting position - see figures 4-7, in that the paired cutting member and pressing member are situated on individual arms located on opposite sides of the sausage strand to be separated - see figures 1-7, such that at the pressing members are moved apart from each other the cutting members are moved toward each other – see figures 4-7- where items 61-62 are moved further apart than they were in figure 5 and thus move in the opposite direction/apart with respect to each other, and moving at least two cutting elements - at 56, forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during the moving of the pressing members toward each other - see figures 4-7.

Referring to claim 8, Ziolkko discloses the separating element also comprises drive means connected to the pressing members and cutting members - see at 45-53, 65 and 74 in figures 1-3.

Referring to claim 9, Ziolkko discloses the pressing members and cutting members are coupled to common drive means - see figures 1-3.

Referring to claim 10, Ziolkko discloses the contact side of the pressing members of a rigidly coupled pair of pressing members and cutting member is directed toward the contact side of the cutting member coupled thereto – see figures 4-7.

Referring to claim 11, Ziolko discloses the separating element is supported by a displaceable holder - at 33 - see figures 1-2.

Referring to claim 12, Ziolko discloses the separating elements are placed in line - see figures 1-2.

Referring to claim 13, Ziolko discloses the mutual distance between successive separating elements is constant - see figure 1.

Referring to claim 14, Ziolko discloses the separating elements are placed on the periphery of a rotatable wheel - see figure 1.

Referring to claim 15, Ziolko discloses the separating elements are provided with cam followers - at 53, which co-act with a cam track - at 42, likewise forming part of the assembly - see figures 1-2, which cam followers and cam track are relatively displaceable – see figures 1-2.

### ***Response to Arguments***

3. Applicant's amendments dated 6-24-08 obviate the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejections set forth in the office action dated 3-24-08.

Regarding claims 1-15, the Ziolko reference US 4418447 discloses pressing members at 61,62, forming part of the separating element toward each other – see figures 4-5, with a first movement such that the sausage strand is constricted locally – see figures 4-5, moving the pressing members in the opposite direction apart from each other – see figure 6, where items 61-62 are moved further apart than they were in figure 5 and thus move in the opposite direction/apart with respect to each other, and moving at least two cutting elements - at 56,

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forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during the moving of the pressing members toward each other - see figures 4-7.

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/  
Primary Examiner, Art Unit 3643